

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aliza Klingenstein	Team: Squad #7	CCRB Case #: 202200430	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/23/2022 7:42 AM	Location of Incident: Outside the 81st Precinct stationhouse	Precinct: 81	18 Mo. SOL 7/23/2023	EO SOL 7/23/2023	
Date/Time CV Reported Sun, 01/23/2022 11:33 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 01/23/2022 11:33 PM		
Complainant/Victim	Type	Home Address			
Subject Officer(s)	Shield	TaxID	Command		
1. PO Anthony Torres	09832	936087	081 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. PO Eric Almeida	00878	963820	081 PCT		
2. SGT Daniel Oliver	02367	955273	081 PCT		
3. PO Raymond Orsini	15680	943858	081 PCT		
4. PO Glenda Holloman	12045	926966	081 PCT		
5. PO David Morfi	18510	968020	081 PCT		
Officer(s)	Allegation		Investigator Recommendation		
A. PO Anthony Torres	Abuse: Police Officer Anthony Torres interfered with § 87(2)(b) use of a recording device.				

Case Summary

On January 23, § 87(2)(b) filed this complaint via the CCRB on-line website.

On January 23, 2022, at approximately 7:42 a.m., outside the 81st Precinct stationhouse in Brooklyn, Police Officer Anthony Torres of the 81st Precinct interfered § 87(2)(b)'s use of a recording device (**Allegation A: Abuse of Authority**, § 87(2)(g)).

One cellphone video and one BWC video were used to analyze the allegation (**Board Review 01&02**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Anthony Torres interfered with § 87(2)(b)'s use of a recording device.

At the time § 87(2)(b) filed this complaint, he stated PO Torres attempted to grab his cellphone while he was exercising his right to record in public (**Board Review 03**). § 87(2)(b) provided the video he recorded during the incident to the investigation.

In § 87(2)(b)'s cellphone video at minute mark 00:25, § 87(2)(b) records the exterior of an unmarked vehicle parked on the street outside the 81st Precinct stationhouse (**Board Review 01**). At 00:31, PO Torres approaches § 87(2)(b) and at 00:33, PO Torres reaches towards § 87(2)(b) with his left hand.

In PO Torres' BWC at minute mark 00:46, PO Torres approaches § 87(2)(b) who stands between parked vehicles and holds a cellphone in his right hand at eye-level in front of him. § 87(2)(b) does not raise his hand upon PO Torres' approach) (**Board Review 02**). At 00:50, PO Torres uses his left hand to grasp § 87(2)(b)'s right wrist for one second, and PO Torres lowers § 87(2)(b)'s right hand from § 87(2)(b)'s eye-level to his chest-level, approximately six inches. At 00:51, § 87(2)(b) maintains his grip on his cellphone and pulls his right hand away from PO Torres as he continues to record.

In § 87(2)(b)'s cellphone video at minute mark 00:35, § 87(2)(b) returns his cellphone to eye-level in front of him. At 00:38, PO Torres asks § 87(2)(b) why he is recording the vehicles, and § 87(2)(b) responds that it is because he is in public. PO Torres repeats his question four times before he tells § 87(2)(b) at 1:44, "You can't record our cars."

PO Torres testified that he observed § 87(2)(b) walking between vehicles parked outside the 81st Precinct stationhouse and recording their exteriors and interiors by angling his camera, although § 87(2)(b) never made contact with the vehicles (**Board Review 04**). PO Torres approached § 87(2)(b) and when he was approximately one arm-length away, § 87(2)(b) quickly raised his hand from chest-level to eye-level in front of him. As an instinctive reaction, PO Torres reached his hand out and contacted § 87(2)(b)'s hand, because PO Torres did not know if § 87(2)(b) would strike him or throw something at him. When PO Torres contacted § 87(2)(b)'s hand, this was not an attempt to stop or prevent § 87(2)(b) from recording. PO Torres told § 87(2)(b) he could not record the vehicles because it was his response to § 87(2)(b)'s behavior, which PO Torres found suspicious. PO Torres understood that civilians were legally allowed to record police vehicles parked on the street.

NYPD Administrative Guide procedure 304-21 states individuals have a right to record police activity in public, and it prohibits officers from attempting to prevent or discourage individuals from doing so (**Board Review 05**).

PO Torres acknowledged that civilians are allowed to record in public and testified that when he contacted § 87(2)(b)'s hand, it was an instinctive reaction to § 87(2)(b) raising his hand upon PO Torres' approach, not an attempt to interfere with his recording. However, BWC shows § 87(2)(b)'s hand was steadily positioned at eye-level until PO Torres grabbed and lowered it (along with § 87(2)(b)'s cellphone). This action, in combination with PO Torres' statement that § 87(2)(b) could not record the vehicles (when he legally could), constituted an attempt by PO Torres to discourage § 87(2)(b) from recording. As civilians are allowed to record in public and Administrative Guide procedure 304-21 clearly prohibits officers from attempting to discourage such activity, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Torres has been a member of service for 17 years and has been a subject in five other CCRB complaints and seven other allegations, two of which were substantiated (**Board Review 07**):
 - 201901685 involved substantiated allegations of Abuse of Authority: Entry of Premises and Abuse of Authority: Failure to provide RTKA card against PO Torres. For both allegations, the Board recommended Charges, and the NYPD has not yet imposed discipline. PO Torres' CCRB history reflects no apparent pattern pertinent to this investigation.

Civil and Criminal Histories

- As of April 06, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (**Board Review 08**).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

Squad: 7

Investigator:	<u>Inv. Klingenstein</u> Signature	<u>Inv. Aliza Klingenstein</u> Print Title & Name	<u>May 11, 2022</u> Date
Squad Leader:	<u>Signature</u>	<u>Manager Vanessa Rosen</u> Print Title & Name	<u>May 11, 2022</u> Date
Reviewer:	<u>Signature</u>	<u>Print Title & Name</u>	<u>Date</u>